

Practitioner's Docket No. BA4-190

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Brian S. Hooker et al.

Application No.: 09/588,314 Group No.: 1635

Filed: June 6, 2000 Examiner: Karen A. Lapiniere

For: "Method of Producing Human Coagulation Factor from Whole Plants or Plant Cell Cultures"

Assistant Commissioner for Patents and Trademarks

P.O. Box 1450, Mail Stop 16, Alexandria VA 22313-1450

ATTENTION: Refund Section, Accounting Division, Office of Finance

REQUEST FOR REFUND
(IMPROPER CHARGE OF DEPOSIT ACCOUNT)

I. RETURN OF REFUND REQUEST

This is a request for a refund, with respect to the debit to Deposit Account 23-0925, shown on the statement dated August 2, 2004 for the above-identified application.

A copy of the monthly statement, in which the error referred to occurs, accompanies this request. A copy of the Fee Transmittal indicating payment of claims dated September 5, 2003 for the Office Action Response to May 6, 2003; check # 140205 and return postcard. A copy of the Remarks section, page 8-9, as filed on May 18, 2004 to the Office Action Response to December 19, 2003 Final Office Action; Fee Transmittal indicating payment of claims, check # 142814 and return postcard. A copy of the Remarks section, page 8-9, Response to December 19, 2003 and June 4, 2004 Advisory Action, as filed on June 10, 2004.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents and Trademarks, Washington, D.C. 20231.

FACSIMILE

- XX transmitted by facsimile to the Patent and Trademark Office. 703-308-5077

Date:

August 2004

Signature

Rhonda G. Rembo

Rhonda G. Rembo

(type or print name of person certifying)

11 total pages

Adjustment date: 09/14/2004 EEKUBAY1
08/02/2004 KTURNER 00000808 230925 09588314
01 FC:2201 172.00 CR
02 FC:2202 36.00 CR

(Request for Debit (Improper Credit of Deposit Account)—page 1 of 2)

BEST AVAILABLE COPY

II. FEES CHARGED FOR WHICH REFUND IS REQUESTED

	AMOUNT OF REFUND REQUESTED
Improper charge for Independent Claims (small entity)	\$172.00
Improper charge for Claims in Excess of 20 (small entity)	\$36.00
TOTAL REFUND REQUESTED	\$208.00

III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

The additional fees charged on August 2, 2004 to application number 09/588,314 are believed to be incorrect due to the fact that the claims had been paid for in earlier Office Action Responses.

On September 5, 2003 we submitted payment for three (3) Independent Claims to the May 6, 2003 Office Action Communication. (Check # 140205) On May 18, 2004 we submitted payment for one (1) Claim in Excess of 20 and one (1) Independent Claim to the December 19, 2003 Office Action Response. (Check # 142814) Therefore, when we filed the Response to December 19, 2003 Office Action and June 4, 2004 Advisory Action Accompanying Filing of an RCE on June 10, 2004, the total amount of claims was 24 with 7 Independent claims as paid in earlier actions.


Therefore, no additional fees are believed to be required. Please credit Deposit Account No. 23-0925 with the above fee amount.

IV. MANNER OF REFUND

Please Credit Account No. 23-0925.

Date:

August 18, 2004


Jennifer J. Taylor, Ph.D.
Reg. No. 48,711
Wells St. John P.S.
601 West First Ave., Suite 1300
Spokane, WA 99201-3828
Tel. No.: (509) 624-4276
Customer No.: 021567



**United States
Patent and
Trademark Office**

Deposit Account Statement

Requested Statement Month:

August 2004

Deposit Account Number:

230925

Name:

WELLS ST JOHN PS

Attention:

RHONDA RAMBO

Address:

601 WEST FIRST AVENUE SUITE 1300

City:

SPOKANE

State:

WA

Zip:

99201-3817

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
08/02	1	6720114		1811	\$100.00	\$15,194.00
08/02	1	10014310	32120-DIV	1201	\$86.00	\$15,108.00
08/02	8	09588314	059440/0128	2201	\$172.00	\$14,936.00
08/02	9	09588314	059440/0128	2202	\$36.00	\$14,900.00
08/06	6	10298159	PY2-029	1201	\$86.00	\$14,814.00
08/09	87	10912256		9204	-\$476.00	\$15,290.00
08/10	7	P109287		1460	\$130.00	\$15,160.00
08/12	33	SUBSCRIPTION		8001	\$6.00	\$15,154.00
08/13	1242	1290540	CA11-101	7205	\$100.00	\$15,054.00
08/13	1243	1290540	CA11-101	7201	\$400.00	\$14,654.00
08/16	45	10916825	MI22-2454	1202	\$202.00	\$14,452.00
08/16	47	10916825	MI22-2454	1201	\$86.00	\$14,366.00
08/16	467	78467502	COBALT	7001	\$670.00	\$13,696.00
08/16	474	78467509	COBALT2	7001	\$670.00	\$13,026.00
08/16	1209	78467854	IT2-140	7001	\$335.00	\$12,691.00
08/16	1231	78467971	IT2-143	7001	\$335.00	\$12,356.00
08/16	1256	78467979	IT2-142	7001	\$335.00	\$12,021.00

START
BALANCE
\$15,294.00

SUM OF
CHARGES
\$3,749.00

SUM OF
REPLENISH
\$476.00

END
BALANCE
\$12,021.00

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PTO/SB/17 (01-03)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL
for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 181.00)

Complete if Known

Application Number	09/588,314
Filing Date	June 8, 2000
First Named Inventor	Brian S. Hooker
Examiner Name	Schmidt, M.
Art Unit	1635
Attorney Docket No.	E-1489-CON

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
Account
Number
Deposit
Account
Name

23-0925

Wells St. John P.S.

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 0.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from	Fee Paid
19	20** = 0		
6	3** = 3		126

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1202	18	2202	9	Claims in excess of 20	
1201	84	2201	42	Independent claims in excess of 3	
1203	280	2203	140	Multiple dependent claim, if not paid	
1204	84	2204	42	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ 126.00)

**or number previously paid. If greater, for Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	2053	130	Non-English specification	
1812	2,520	2812	2,520	For filing a request for ex parte reexamination	
1804	820*	2804	820*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	2805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	55
1252	410	2252	205	Extension for reply within second month	
1253	830	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1480	130	2480	130	Petitions to the Commissioner	
1807	50	2807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	2806	180	Submission of Information Disclosure Stmt	
8021	40	28021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a request for reconsideration or rejection	
1810	750	2810	375	For each independent invention to be claimed (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	2802	900	Request for expedited examination of a design application	

Other fee (specify):

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 55.00)

SUBMITTED BY

Name (Print/Type)

Jennifer J. Taylor, Ph.D.

Registration No.

48,711

(Complete if applicable)

Telephone 509-824-4276

Signature

Jennifer J. Taylor

Date

9-5-2003

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EV318284354

BA4-190 (JT)

Battelle Memorial Institute

09/03

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the following papers relating to the Patent application of Brian E. Hooker et al., Serial No. 08/588,314, filed June 6, 2000, entitled "Method of Producing Human Coagulation Factors from Whole Plants or Plant Cell Structures".

1. PTO Return Postcard Receipt
2. A \$181.00 check
3. Transmittal Form (PTO/SB/21) ~~and~~ Transmittal (PTO/SB/19)
4. Request for 1 month extension of time
5. Response to May 6, 2003 Office Action



EV318284354US

WELLS ST. JOHN P.S.
Vendor: 1001 Commissioner of Patents & Trademarks

140205

WELLS ST. JOHN P.S.

140205

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
09/05/03	1001 Commissioner of Patents & Trademarks BA4-190 Gov Filing Fee for a 1 MO Ext & Extra Claims(JJT)		181.00		181.00

COPY

CHECK DATE 09/05/03	CONTROL NUMBER 140205	TOTALS ▶ Gross:	181.00	Ded:	0.00	Net:	181.00
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Appl. No. 09/588,314

REMARKS

Claims 1, 6, 12, and 18-19 are amended. Claims 13, 15 and 23 are cancelled. New claims 24-31 are added. Claims 1-10, 12, 18-22 and 24-31 are pending in the application.

Claims 1-10, 12-15 and 18-23 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention at the time the application was filed. The Examiner indicates in the Action that previous rejections are maintained since the claims encompass subject matter other than the full length sequence.

Applicant notes that claim 14 was cancelled in a previous response and was not pending in the application at the time of the present Action.

During an examiner interview conducted on February 25, 2004, the claim language as presented in this response was discussed with the Examiner. Specifically, claims 1, 6, 12, 18, 19 were discussed. With respect to independent claims 1 and 6, as agreed by the Examiner, the present amendment limits the scope of these claims, and the claims 2-5 and 7-10 that depend therefrom, to the allowable "full-length" subject matter.

With respect to claims 12, 18 and 19, as agreed by the Examiner the present amendments clarify that these claims are directed toward the full-length sequence. Accordingly, these claims, and claims 20-22 which depend from claim 19, encompass only subject matter indicated to be allowable.

Regarding claims 13, 15 and 23, without admission as to the propriety of the Examiner's rejection, such claims are cancelled.

The amendments discussed above overcome the section 112 rejections and place claims 1-10, 12, and 18-22 in condition for allowance.

Appl. No. 09/588,314

New claims 24-31 do not add "new matter" to the application since each is supported by the specification as originally filed. Claims 24-31 are supported by the specification at for example, page 14, line 16 through page 15, line 5 (example 1). Claim 24 is further supported at, for example, page 13, lines 1-8. Claim 25 is further supported by the specification at, for example, page 10, lines 9-16; and Fig. 2. Claims 26-27 and 29-30 are further supported by the specification at, for example, Fig. 3; page 10, lines 17-21; Fig. 4; page 10, line 22 through page 11, line 4; and page 9, lines 4-7. Claim 28 is further supported by the specification at, for example, page 15, lines 8-11.

For the reasons discussed above, claims 1-10, 12, and 18-22 are allowable and claims 24-31 are believed allowable. Accordingly, applicant requests formal allowance of pending claims 1-10, 12, 18-22 and 24-31 in the Examiner's next action.

Respectfully submitted,

Dated:

May 18, 2004

By:

COPY
Jennifer J. Taylor
Jennifer J. Taylor, Ph.D.
Reg. No. 48,711

PTO/SB/17 (10-03)

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Approved for use through 07/31/2006. OMB 0651-0032

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FEE TRANSMITTAL
for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 262.00

Complete if Known

Application Number	09/588,314
Filing Date	June 6, 2000
First Named Inventor	Brian S. Hooker
Examiner Name	Lacourciere, Karen A.
Art Unit	1635
Attorney Docket No.	E-1489-CON

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
Deposit Account Name

23-0925

Wells St. John P.S.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
24	7		1	9	
			1	43	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 52.00

*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity - Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
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1252 420	2252 210	Extension for reply within second month	210
1253 850	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 280	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recognition of prior art under proper procedure	
1809 770	2809 385	Filing a continuation and final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 210.00

SUBMITTED BY

Name (Print/Type) Jennifer J. Taylor, Ph.D.

Registration No. (Attorney/Agent)

48,711

(Complete if applicable)

Telephone 509-624-4276

Signature

Jennifer J. Taylor

Date May 18, 2004

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

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EV 352455933

May 18, 2004

BA4-190.(JT)

Battelle Memorial Institute

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the following papers relating to the Patent application of Brian S. Hooker et al. Serial No. 08/588,314, filed June 6, 2000, entitled "Methods of Producing Human Coagulation Factor from Whole Plants or Plant Cell Cultures".

1. PTO Return Postcard Receipt
2. A \$262.00 check
3. Transmittal Form (PTO/SB/21) & Fee Transmittal (PTO/SB/17)
4. Petition for 2 month extension of time
5. Response to December 19, 2003 Final Office Action

EV372455968US

Vendor: **WELLS ST. JOHN P.S.**

1001 Commissioner of Patents & Trademarks

WELLS ST. JOHN P.S.

142814

142814

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
05/18/04	BA4-190 Gov filing Fee for a 2 MO Ext & Added Claims(JJT)		262.00		262.00

COPY

05/18/04	CONTACT NUMBER	TOTALS ►	Gross: 262.00	Ded: 0.00	Net: 262.00
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Appl. No. 09/588,314

Response to Dec. 19, 2003 office action and June 4, 2004 Advisory Action

REMARKS

Claims 1, 6, 12, and 18-19 are amended. Claims 13, 15 and 23 are cancelled. New claims 24-31 are added. Claims 1-10, 12, 18-22 and 24-31 are pending in the application.

Claims 1-10, 12-15 and 18-23 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention at the time the application was filed. The Examiner indicates in the Action that previous rejections are maintained since the claims encompass subject matter other than the full length sequence.

Applicant notes that claim 14 was cancelled in a previous response and was not pending in the application at the time of the present Action or advisory action.

During an examiner interview conducted on February 25, 2004, the claim language as presented in this response was discussed with the Examiner. Specifically, claims 1, 6, 12, 18, 19 were discussed. With respect to independent claims 1 and 6, as agreed by the Examiner, the present amendment limits the scope of these claims, and the claims 2-5 and 7-10 that depend therefrom, to the allowable "full-length" subject matter. In the advisory action the Examiner indicated a belief that the claims would still encompass variant proteins. Without admission as to the propriety of the examiner's statements, claims 1, 6 and 12 are further amended to specify full length factor VII.

Claims 2-5, 7-10, 18-22 are allowable for at least the reason that they depend from corresponding allowable base claims 1 and 6.

Regarding claims 13, 15 and 23, without admission as to the propriety of the Examiner's rejection, such claims are cancelled.

COPY

Appl. No. 09/588,314

The amendments discussed above overcome the section 112 rejections and place claims 1-10, 12, and 18-22 in condition for allowance.

New claims 24-31 do not add "new matter" to the application since each is supported by the specification as originally filed. Claims 24-31 are supported by the specification at for example, page 14, line 16 through page 15, line 5 (example 1). Claim 24 is further supported at, for example, page 13, lines 1-8. Claim 25 is further supported by the specification at, for example, page 10, lines 9-16; and Fig. 2. Claims 26-27 and 29-30 are further supported by the specification at, for example, Fig. 3; page 10, lines 17-21; Fig. 4; page 10, line 22 through page 11, line 4; and page 9, lines 4-7. Claim 28 is further supported by the specification at, for example, page 15, lines 8-11.

For the reasons discussed above, claims 1-10, 12, and 18-22 are allowable and claims 24-31 are believed allowable. Accordingly, applicant requests formal allowance of pending claims 1-10, 12, 18-22 and 24-31 in the Examiner's next action.

Since extension fees have been paid previously for extension of the period for reply by 2 months (at the time of filing the response after final), only extension for one additional month is believed due at this time and is included herewith.

Respectfully submitted,

Dated:

June 10, 2004

By:

Jennifer J. Taylor
Jennifer J. Taylor, Ph.D.
Reg. No. 48,711**COPY**

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